

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff-Respondent,

Criminal No. 00-80466

vs.

HON. GEORGE CARAM STEEH

ROBERT LEE CHILDRESS,

Defendant-Petitioner.

_____/

ORDER DENYING PETITIONER'S MOTION FOR RELIEF
FROM JUDGMENT PURSUANT TO RULE 60(b)(6) [DOC. 76]

This matter is before the court on petitioner Robert Lee Childress' motion for relief from judgment or order pursuant to Fed. R. Civ. P. 60(b)(6). On June 30, 2010, this court denied Mr. Childress' motion to vacate his sentence pursuant to 28 U.S.C. § 2255 as untimely. Mr. Childress sought a certificate of appealability from the Court of Appeals for the Sixth Circuit, which was denied on December 23, 2010 for failure to provide any persuasive grounds for equitable tolling.

Childress files the present motion to reopen his case due to his counsel's failure to file a timely appeal. Childress implies that his counsel's failure to timely file is the basis of his ineffective assistance of counsel claim, and provides a basis for relief from judgment.

Petitioner Childress has failed to make any argument that was not previously made and considered, both by the District Court and the Court of Appeals. Now, therefore,

Petitioner's motion for relief from judgment is DENIED.

IT IS SO ORDERED.

Dated: April 5, 2011

S/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on April 5, 2011, by electronic and/or ordinary mail and also to Robert Lee Childress, Jr. At Mound Correctional Facility, 17601 Mound Road, Detroit, MI 48212.

S/Josephine Chaffee
Deputy Clerk